



ENVIRONMENTAL PROTECTION AGENCY

[FRL-9927-07-Region-10]

Proposed Issuance of NPDES General Permit for Tribal Marine Net Pen Enhancement Facilities in Washington State (Permit Number WAG132000)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed issuance of NPDES General Permit and request for public comment.

SUMMARY: The Environmental Protection Agency (EPA) Region 10 proposes to issue a National Pollutant Discharge Elimination System (NPDES) General Permit for Tribal Marine Net Pen Enhancement Facilities in Washington State (General Permit). As proposed, the General Permit authorizes discharges to Waters of the U.S. within the State of Washington. The draft General Permit contains effluent limitations, along with administrative reporting and monitoring requirements, as well as standard conditions, prohibitions, and management practices. A fact sheet is available that explains the draft General Permit in detail. Section 401 of the Clean Water Act, 33 U.S.C. 1341, requires EPA to seek a certification from the State of Washington that the conditions of the general permit are stringent enough to comply with State water quality standards. The Washington Department of Ecology (Ecology) has provided a draft certification that the draft General Permit complies with the State of Washington Water Quality Standards. EPA intends to seek a final certification from Ecology prior to issuing the General

Permit. This is also notice of the draft § 401 certification provided by Ecology. Persons wishing to comment on the draft State certification should send written comments to Mr. Bill Moore; Water Quality Program, Washington Department of Ecology, PO Box 47696, Olympia, Washington 98504-7696 or via e-mail to bmoo461@ecy.wa.gov

DATES: The public comment period for the draft General Permit will be from the date of publication of this Notice until [INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]. Comments must be received or postmarked by no later than midnight Pacific Standard Time on [INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]. All comments related to the draft General Permit and Fact Sheet received by EPA Region 10 by the comment deadline will be considered prior to issuing the General Permit.

SUBMITTING COMMENTS: You may submit comments by any of the following methods. All comments must include the name, address, and telephone number of the commenter.

Mail: Send paper comments to Ms. Catherine Gockel, Office of Water and Watersheds; USEPA Region 10; 1200 6th Ave, Suite 900, OWW-191; Seattle, Washington 98101.

E-mail: Send electronic comments to catherin.gockel@epa.gov. Make sure to write “Comments on the Draft Tribal Marine Net Pen Enhancement Facilities General Permit” in the subject line.

Fax: Fax comments to the attention of Catherine Gockel at (206) 553-0325.

Hand Delivery/Courier: Deliver comments to Catherine Gockel, EPA Region 10, Office of Water and Watersheds, Mail Stop OWW-191, 1200 6th Avenue, Suite 900, Seattle,

WA 98101-3140. Call (206) 553-0523 before delivery to verify business hours.

Viewing and/or Obtaining Copies of Documents. A copy of the draft General Permit and the Fact Sheet, which explains the proposal in detail, may be obtained by contacting EPA at 1 (800) 424-4372. Copies of the documents are also available for viewing and downloading at: www.epa.gov/r10earth/waterpermits.htm.

Requests may also be made to Audrey Washington at (206) 553-0523 or washington.audrey@epa.gov.

Public Hearing: Persons wishing to request a public hearing should submit their written request by [INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER] stating the nature of the issues to be raised as well as the requester's name, address, and telephone number to Catherine Gockel at the address above. If a public hearing is scheduled, notice will be published in the Federal Register. Notice will also be posted on the Region 10 web site, and will be mailed to all interested persons receiving letters of the availability of the Draft General Permit.

FOR FURTHER INFORMATION CONTACT: Additional information can be obtained by contacting Catherine Gockel, Office of Water and Watersheds, U.S. Environmental Protection Agency, Region 10. Contact information is included above in the "Submitting Comments" Section.

OTHER LEGAL REQUIREMENTS:

Endangered Species Act [16 USC § 1531 et al.]. Section 7 of the Endangered Species Act (ESA) requires Federal agencies to consult with NOAA Fisheries (NMFS) and the U.S. Fish and Wildlife Service (USFWS) (the Services) if their actions have the potential

to either beneficially or adversely affect any threatened or endangered species. EPA has analyzed the discharges proposed to be authorized by the draft General Permit, and their potential to adversely affect any of the threatened or endangered species or their designated critical habitat areas in the vicinity of the discharges. Based on this analysis, EPA has determined that the issuance of this permit will have no effect to any threatened or endangered species in the vicinity of the discharge. Therefore, ESA consultation is not required.

National Environmental Policy Act (NEPA) [42 USC § 4321 et.seq.] and Other Federal Requirements. Regulations at 40 CFR 122.49, list the federal laws that may apply to the issuance of permits i.e., ESA, National Historic Preservation Act, the Coastal Zone Act Reauthorization Amendments (CZARA), NEPA, and Executive Orders, among others. The NEPA compliance program requires analysis of information regarding potential impacts, development and analysis of options to avoid or minimize impacts; and development and analysis of measures to mitigate adverse impacts. EPA determined that no Environmental Assessments (EAs) or Environmental Impact Statements (EISs) are required under NEPA. EPA also determined that CZARA does not apply.

Essential Fish Habitat (EFH). The Magnuson-Stevens Fishery Management and Conservation Act requires EPA to consult with NOAA-NMFS when a proposed discharge has the potential to adversely affect a designated EFH. The EFH regulations define an adverse effect as “any impact which reduces quality and/or quantity of EFH...[and] may include direct (e.g. contamination or physical disruption), indirect (e.g.

loss of prey, reduction in species' fecundity), site-specific or habitat-wide impacts, including individual, cumulative, or synergistic consequences of actions." NMFS may recommend measures for attachment to the federal action to protect EFH; however, such recommendations are advisory, and not prescriptive in nature. EPA has evaluated the Draft General Permit and has made the determination that issuance of the General Permit will have no effect on EFH.

Executive Order 12866: The Office of Management and Budget (OMB) exempts this action from the review requirements of Executive Order 12866 pursuant to Section 6 of that order.

Economic Impact [Executive Order 12291]: The EPA has reviewed the effect of Executive Order 12291 on this Draft General Permit and has determined that it is not a major rule pursuant to that Order.

Paperwork Reduction Act [44 USC § 3501 et seq.] The EPA has reviewed the requirements imposed on regulated facilities in the Draft General Permit and finds them consistent with the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

Regulatory Flexibility Act [5 U.S.C. § 601 et seq.] The Regulatory Flexibility Act (RFA) requires that EPA prepare an initial regulatory flexibility analysis for rules subject to the requirements of the Administrative Procedures Act [APA, 5 U.S.C. § 553] that have a significant impact on a substantial number of small entities. However, EPA has concluded that NPDES General Permits are not rulemakings under the APA, and thus not subject to APA rulemaking requirements or the RFA.

Unfunded Mandates Reform Act

Section 201 of the Unfunded Mandates Reform Act (UMRA), Public Law 104-4, generally requires Federal agencies to assess the effects of their regulatory actions (defined to be the same as rules subject to the RFA) on tribal, state, and local governments, and the private sector. However, General NPDES Permits are not rules subject to the requirements of the APA, and are, therefore, not subject to the UMRA.

Authority: This action is taken under the authority of Section 402 of the Clean Water Act as amended, 42 U.S.C. 1342. I hereby provide public notice of the Draft General Permit for Tribal Marine Net Pen Enhancement Facilities in Washington State in accordance with 40 CFR 124.10.

Dated: April 23, 2015.

Daniel D. Opalski,

Director,

Office of Water and Watersheds,

Region 10.

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